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NORTHERN DISTRICT OF CALIFORNIA

NW

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1 William Brown II
1 K93463 OWZ41
2 Hwy 101 P.O. Box 689
3 Salsedo, CA 93960-0689
4 Petitioner, In Pro Per
5

6 United States District Court
7 Northern District of California **E-filing**

CW

8 William Brown

9 Petitioner,
10 US

11 Correctional Training
12 Facility, et.al.,

13 Defendants.

Case No. **07**

596 2

Temporary Restraining Order
and/or Preliminary Injunction

(PR)

15 Plaintiff William Brown, requests this Court
16 to grant him a temporary restraining order and/or preliminary
17 injunction directing the defendants to withhold its process
18 from ^{from} initiating or transferring the Plaintiff from the facility.
19
20 Dated: 19 Nov 2007

22 Respectfully submitted,

24
25 *William Brown*
26 William Brown

27
28

1 William Brown II
2 K95463 OWZ41
3 Hwy 101 P.O. Box 689
4 Soledad, CA 93860-0689
5 Petitioner, In Pro Per

6 United States District Court
7 Northern District of California
8

9 William Brown, II,
10 Plaintiff, Case No.
11 vs.
12 Correctional Training Facility, et al.,
13 Defendants.

Brief in Support

15 Brief in Support of Plaintiff's Motion for
16 Temporary Restraining Order and/or Preliminary Injunction
17

18 Statement of the Case

19 This is an 1983 action filed by a State Prisoner at
20 Correctional Training Facility - (CTF), Soledad, CA, seeking
21 damages, declaratory judgment, and injunctive relief based
22 on prison officials' abuse of authority, use of excessive
23 force, violation of due process to fair hearing of Rule Violation
24 Reports.

1
2 Statement of Facts
3

4 As set forth in detail in the Declaration of William Brown
5 attached, Defendants Stephens, (SHO)¹ failed to allow the plaintiff
6 an fair and impartial hearing of Rule Violations, the findings
7 of guilty of serious Rule Violations has increased the Plaintiff's
8 Point score, in which makes the plaintiff a level IV, or Maximum
9 Custody, therefore resulting in a transfer of institutions from a
10 level III facility to a level IV facility.
11

12
13 Argument
14

(I)

15 A litigant may be granted a temporary restraining order (TRO)
16 upon showing that the plaintiff is in danger of immediate and
17 irreparable injury, that the adverse party will not be
18 substantially harmed if a TRO is granted, that the TRO is con-
19 sistent with the public interest, and that the petitioner has a
20 strong likelihood of success in the lawsuit.
21

22
23
24 _____
25 1) Senior Hearing Officer
26
27
28

1 A. Irreparable Injury.

2 A loss of constitutional rights, even for a short periods
 3 of time, constitutes injury. Eldred v. Burns, 427 U.S. 347, 373
 4 (1976). The deprivation of an fair and just hearings of
 5 Rule Violations clearly violates the Constitution. Everyday
 6 that the findings of guilty RVR's remain at the disposal
 7 of the defendant's, denies the plaintiff his right to challenge
 8 challenge the violations, before he is transferred, through CDE 12,
 9 Appeals system.

10 B. Absence of Harm to the Adverse Party.

11 There is no harm that can be rendered to defendants,
 12 due to the Plaintiff being in Administrative Segregation. Thus,
 13 there will not be harm to defendants from a TRO.

14 Even if the Court finds that the Plaintiff is not entitled to a
 15 temporary restraining order, it should grant plaintiff a preliminary
 16 injunction after notice to the defendants.

1 California Department of Corrections and Rehabilitation

1 A preliminary injunction may be granted upon notice
2 based on consideration of the same two factors discussed
3 above, (I) supra.

4
5 Wherefore, the court should grant a temporary restraining
6 order or, in the alternative a preliminary injunction, directing
7 the defendants to sustain from transferring the Plaintiff,
8 forthwith.

9
10 Dated: 19 Nov 2007

11
12
13 Respectfully submitted,

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17 William Tracy

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1 William Brown, II
2 K93463 OUT 241
3 Hwy 101 P.O. Box 689
4 Soledad, CA 95960-0689
5 Petitioner In Proper

6 United States District Court
7 Northern District of California

8 William Brown, II,
9 Plaintiff,

10 Case No.

11 US.

12 Correctional Training
13 Facility, et al.,

14 Declaration of William Brown
15 for Support

Defendants.

I, William Brown, declare:

1) I am the Plaintiff in the above-entitled matter and
I make this declaration in support of my motion for a
temporary restraining order or, in the alternative, for a
preliminary injunction.

2) That on the dates of the Plaintiff's hearings he was
not afforded an opportunity to a fair hearing, in which he
was found guilty of all Rule Violations, thus increasing
my point score and placing me up for transfer to a maximum
Security institution, (see attached 1Z8-6 Chrono).

1 3) Due to the fact that the SHO cannot maintain a fair
2 and impartial Hearings as indicated in a previous Habeas
3 Corpus Petition filed by the Petitioner, (Monterey Superior
4 Court, HC5775), petitioner must challenge the validity
5 of guilty findings done by defendant E. Stephens, that
6 his action and decisions were sound and just.
7

8 4) No prior application for relief sought in this motion
9 has been made.

10 Dated: 19 Nov 2007

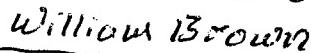
11 Respectfully submitted,
12

13 
14

15 William Brown

16 I declare under the penalty of perjury that the foregoing
17 is true and correct.
18

19 Signed this 19 day of Nov 2007.

20 
21

22 William Brown 
23

24 1) See complaint, I.E.

25 Also see supporting documents I

26

27

28

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

NAME: BROWN

CDC #: K93463

BED: COW-241L

COMMITTEE ACTION SUMMARY

RETAIN IN ASU, CONTINUE MAX CUSTODY, ESTABLISH D1D WG/PG EFFECTIVE 11/1/07 (PROGRAM FAILURE), CONTINUE 2X CELL, PSYCH CLEAR, ORDER NEW CDC 114D, REFER TO CSR RX TX CEN IV (270)/CAL IV (270).

COMMITTEE'S COMMENTS

Inmate BROWN appeared before Correctional Training Facility's (CTF's) Administrative Segregation Unit (ASU) Institutional Classification Committee (ICC) today for his Program Review. BROWN stated that his health was good and was willing to proceed. BROWN received his 72-hour notice for the purpose of this review. Prior to committee reviewing and discussing this case, BROWN was introduced to the committee members. According to BROWN'S CDC 114D, he was placed into CTF's ASU on 8/3/2007 for: attempted battery on a non-inmate with a weapon.

Purpose of ICC program review: recommend Level IV review based upon recent disciplinaries. Case factors remain the same as indicated on CDC-128G dated 10/11/06 with the following changes or additions: TB code is 22 per CDC-128C dated 3/19/07; disciplinary history includes RVRS for Conduct Conducive to Force/Violence (8/3/07), Refusing to Attend Substance Abuse Program (8/1/07), Refusing to Submit to Urine Sample (7/30/07), Obstructing a Peace Officer in the Performance of his Duty (7/26/07), and Disobeying Orders (12/19/06); unfavorable points have been assessed for these RVRS, resulting in a 20 point unfavorable change to the placement score, from 48 to 68.

Due to this increase in placement score, BROWN requires transfer to a level IV institution. CEN IV (270) and CAL IV (270) are the selected institutions for adverse TX. Upon TX he will be eligible for CLO-B custody and C/C WG/PG.

ICC notes that BROWN is deemed a program failure due to his recent disciplinary history which includes four (4) serious RVR's within a 120 day period. His WG/PG is established at D2D while in ASU from this date forward. Based on this behavior, ICC also considers BROWN a management concern and applies CLO-B custody for a period of observation. His custody will be reviewed again at his next scheduled annual review (7/08).

A new CDC 114D is requested due to the reason of ASU retention is now due to having level IV placement score, and being considered a threat to the safety and security of the institution.

Based upon a review of BROWN'S CDC 114D, CDC 115s, Central File, case factors, and through discussion with him, committee elects to: Retain in ASU, Continue MAX custody, Establish D1D WG/PG effective 11/1/07 (Program Failure), Continue 2x cell, Psych Clear, Order new CDC 114D, Refer to CSR RX TX CEN IV (270)/CAL IV (270).

At the conclusion of this review, BROWN was informed of his Appeal Rights with regards to this committee's actions. BROWN acknowledged his understanding and agreement with committee's actions.

STAFF ASSISTANT

Not Assigned: (Issues not complex and non-participant in MHSDS)

INMATE CASE FACTORS

CUSTODY	RPS/LEVEL	WG/PG & EFF. DATE	RELEASE DATE	GRPL	RECLASS	ETHNIC	PSYCH	DATE 128C	NEXT BRT & DATE
MAX	68/IV	D2D - 11/1/2007	EPRD 12/23/2009	HSD	7/1/2008	BLA	Clear		N/A

COMMITTEE MEMBERS

MEMBERS

G. Ortiz, A W; A. Kester, FC (A); M. Iomeli, CCII (A);
Dr. R. Greene, Mental Health


 RECORDER
S. Martin, CCII


 CHAIRPERSON
W. Cohen, CDW

Committee Date: 11/1/2007

PROGRAM REVIEW

Committee: O110107SDM1

Typed By: - Distribution: C-File & Inmate

CORRECTIONAL TRAINING FACILITY

Classification Chrono CDCR 128G (Rev: 10/06)